

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CRIMINAL APPLICATION No 775 of 1996

For Approval and Signature:

Hon'ble MR.JUSTICE S.D.PANDIT

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

DEVJI SHAMJIBHAI SATWARA

Versus

VAKHTIBEN DEVJIBHAI SATWARA

Appearance:

MR BD KARIA for Petitioner

MR BK OZA for Respondent No. 1

MR H.F.MEHTA, A.P.P. for Respondent No. 3

CORAM : MR.JUSTICE S.D.PANDIT

Date of decision: 07/11/96

ORAL JUDGEMENT

Devji Shamjibhai Satwara has filed the present petition under Article 227 of the Constitution of India to challenge the order passed by the learned Judicial Magistrate First Class, Morvi on 31-5-95 in Criminal Misc.Application No.199/94 and the order passed by the Additional Sessions Judge, Morvi in Criminal Revision Application No.21/95 decided on 8-3-96.

2. The respondent No.1- Vakhtiben Devjibhai Satwara had filed Misc.Criminal Application No.199/94 on behalf of herself and minor daughter Geeta under Section 125 of the Cr.P.C. to get the maintenance for herself and her child Geeta. It was her claim that as she happened to give birth to all female children, her husband treated her with cruelty and make it impossible for her to live with him and ultimately thrown her out of the house and that he was also living with another woman by name Savita. On appreciation of the oral evidence led before him by both the sides, the learned Magistrate accepted the claim of the original petitioner and refused to accept the claim of the present revision applicant whose only claim was of total denial. The learned Magistrate has accepted the oral evidence by appreciating the same in view of the material before him and when the learned Magistrate had the opportunity to mark demeanour of the witnesses. When it is not possible from the material on record to hold that his appreciation is improper or perverse, it is not possible for this Court to interfere with the said appreciation which has been approved and confirmed by the First Revisional Court namely Additional Sessions Judge in Criminal Revision Application No.21/95. The learned Additional Sessions Judge has also rejected the respondent No.1 and 2's Criminal Revision Application No.23/95 filed by her to get the rise of quantum of maintenance. From the material on record, it is not possible to hold that the conclusion to which the learned Magistrate has arrived at is a perverse conclusion or is contrary to any provisions of law or settled principle of law. Therefore, in the circumstances, there is no material to interfere with the finding recorded by the learned Judicial Magistrate. I, therefore, hold that there is no substance in this petition and the same is summarily rejected.

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